

REMARKS

Claims 1-11 were previously pending in this application. In this response, no amendments are made. Applicant respectfully requests reconsideration for the reasons stated below.

Rejections Under 35 U.S.C. §103

The Examiner has rejected claims 1-11 under 35 U.S.C. §103(a) as being unpatentable over a combination of a published '597 Canadian patent application to Plummer et al. for a landmine detection vehicle, and a published U.S. patent application to Kyle J. Doerksen et al., assigned to Kymatix Research, Inc.

The CA '597 patent application is a landmine detection system that includes Ground Penetrating Radar sensors 13 disposed on arm 10, for supplying information to determine landmine locations and to steer the vehicle. Also on the vehicle is disposed a lane marking system 70 which leaves an indication of the swept path. The Examiner acknowledges that Plummer et al. does not show a positioning marker or its use, so he resorts to the Doerksen specification and asserts that it shows determining the position of a moving sensor including, inter alia, positioning markers. He refers to paragraph 0016 of the text which discusses optical computer mice. The paragraph states that the system can detect movement of the mouse relative to the surface in any direction and that this yields relative position which can be measured "relative to markers or targets at known surface locations."

To base an obviousness rejection on a combination of references requires that the Examiner establish that one skilled in the art would have been motivated to make the combination. Here, the Examiner states that there would have been motivation from Doerksen to "improve the detection of underground objects." Applicant respectfully disagrees with this formulation of a motivation-by-hindsight, and requests reconsideration.

Firstly, there is nothing in Plummer et al or anywhere else in the record to indicate that the Plummer et al system and method were not entirely adequate as is. Second, the addition of a marker per Doerksen would require the marker to be placed in advance of its use. As Plummer relates to a landmine detection system, placing markers on a field to be swept for landmines in advance of that sweeping operation is an invitation to blow up the person or mechanism placing

the markers! There is, manifestly, an incompatibility between the sweeping for landmines and the use of pre-placed markers. Consequently, there quite clearly is no motivation to combined such references and, in fact, what amounts to an implicit teaching away. One cannot ignore the intended use of the Plummer et al apparatus.

Moreover, the rejection was made against all claims but the Office Action does not even treat the claims element-by-element, and does not discuss a single dependent claim. On a *prima facie* basis, the rejection is inadequate as a matter of law. Applicant is not required to read the Examiner's mind as to where and how he finds the claimed limitations in the references. Relative to claims 2 and 7, for example, the Office Action nowhere establishes that the references show a marker which is a bar code and a marker detector which is an optical scanner. Regarding claim 3, there is no indication where the Examiner finds the step of deploying a plurality of markers, and encoding each marker with its associated positional information. Regarding claims 5 and 6, there is no indication where the Examiner finds "a marker detector that transmits a marker detection signal when in close proximity to a marker; and a control unit coupled to the marker detector and to the sensor; wherein the positional information associated with a marker is provided to the control unit in response to the marker detection signal and the control unit determines at least one coordinate of the sensor based on said positional information and on a predetermined location of the marker detector relative to the sensor" or "a movable platform upon which the marker detector and the sensor are located." To the best of Applicant's reading, the limitations A – D of claims 8 and 10 and the further limitations of claims 9 and 11 are not discussed in the Office Action, nor are they found in the references. There is no disclosure of use of a grid and markers placed on the grid, for example, and the Office Action utterly fails to address those features of the claims.

Accordingly, withdrawal of this rejection is respectfully requested, and the application should be passed to allowance.


CONCLUSION

A Notice of Allowance is respectfully requested. The Examiner is requested to call the undersigned at the telephone number listed below if this communication does not place the case in condition for allowance.

If this response is not considered timely filed and if a request for an extension of time is otherwise absent, Applicant hereby requests any necessary extension of time. If there is a fee occasioned by this response, including an extension fee, that is not covered by an enclosed check, please charge any deficiency to Deposit Account No. 23/2825.

Respectfully submitted,
ROBERTS, Roger L., Applicant(s)

By:



Steven J. Henry, Reg. No. 27,900
Wolf, Greenfield & Sacks, P.C.
600 Atlantic Avenue
Boston, Massachusetts 02210-2206
Telephone: (617) 646-8000

Docket No.: G0083.70038US00
Date: August 3/, 2005
x06/01/05x